

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

LEBERT A. GORDON,

Petitioner,

v.

**CIVIL ACTION NO. 1:07cv85
(Judge Stamp)**

FEDERAL BUREAU OF PRISONS,

Respondent.

ROSEBORO NOTICE AND ORDER TO SUBSTITUTE PROPER RESPONDENT

On June 25, 2007, this matter was transferred to this court from the District of Columbia. The petitioner, Lebert A. Gordon, is a federal prisoner incarcerated in USP Hazelton. His petition, filed under 28 U.S.C. § 2241 alleges that the Bureau of Prisons has incorrectly calculated his D.C. Institutional Good Time Credit. On October 11, 2007, the respondent, Joe Driver, filed a Motion to Dismiss or for Summary Judgment in response to the petitioner's petition for writ of habeas corpus. The Court notes that the petitioner is proceeding *pro se*. The Court has a mandatory duty to advise the petitioner of his right to file responsive material, and to alert him to the fact that his failure to so respond might result in the entry of an order of dismissal against him. Davis v. Zahradrich, 600 F.2d 458, 460 (4th Cir. 1979); Roseboro v. Garrison, 528 F2d 309, 310 (4th Cir. 1975). The petitioner is so advised.

Within thirty (30) days of entry of this Order, the petitioner shall file any opposition explaining why his case should not be dismissed. The petitioner is advised that he must serve the respondent with any response he files.

In addition, a petition for writ of habeas corpus should be directed to the person having custody over the petitioner. For purposes of habeas corpus petitions, the custody of an inmate is the warden of the facility housing the inmate. Therefore, the Clerk is directed to substitute Warden Joe Driver as the proper respondent.

IT IS SO ORDERED

The Clerk of the Court is directed to mail a copy of this Order to the *pro se* petitioner by certified

mail, return receipt requested, to his last known address as shown on the docket sheet. The Clerk of the Court is further directed to provide a copy of this Order to all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Filing in the United States District Court.

DATED: October 12, 2007.

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE